

State of Arizona
Senate
Fifty-second Legislature
First Regular Session
2015

SENATE BILL 1241

AN ACT

AMENDING TITLE 9, CHAPTER 4, ARTICLE 8, ARIZONA REVISED STATUTES, BY ADDING SECTION 9-500.34; AMENDING TITLE 11, CHAPTER 2, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 11-269.13; RELATING TO ENERGY REGULATORY PROHIBITION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 9, chapter 4, article 8, Arizona Revised Statutes, is
3 amended by adding section 9-500.34, to read:

4 9-500.34. Prohibition on requirement of energy measuring and
5 reporting; prohibition on regulation of auxiliary
6 containers; state preemption; legislative findings;
7 definition

8 A. A CITY OR TOWN MAY NOT:

9 1. REQUIRE AN OWNER, OPERATOR OR TENANT OF A BUSINESS, COMMERCIAL
10 BUILDING OR MULTIFAMILY HOUSING PROPERTY TO MEASURE AND REPORT ENERGY USAGE
11 AND CONSUMPTION, INCLUDING ENERGY CONSUMPTION BENCHMARKING AND BUILDING
12 FACILITY ENERGY EFFICIENCY AUDITS.

13 2. IMPOSE A TAX, FEE, ASSESSMENT, CHARGE OR RETURN DEPOSIT ON A
14 CONSUMER OR AN OWNER, OPERATOR OR TENANT OF A BUSINESS, COMMERCIAL BUILDING
15 OR MULTIFAMILY HOUSING PROPERTY FOR AUXILIARY CONTAINERS.

16 3. REGULATE THE SALE, USE OR DISPOSITION OF AUXILIARY CONTAINERS BY AN
17 OWNER, OPERATOR OR TENANT OF A BUSINESS, COMMERCIAL BUILDING OR MULTIFAMILY
18 HOUSING PROPERTY.

19 B. THE REGULATION OF AN OWNER, OPERATOR OR TENANT OF A BUSINESS,
20 COMMERCIAL BUILDING OR MULTIFAMILY HOUSING PROPERTY RELATING TO MEASURING AND
21 REPORTING ENERGY USE AND CONSUMPTION AND THE SALE, USE AND DISPOSITION OF
22 AUXILIARY CONTAINERS IS A MATTER OF STATEWIDE CONCERN. THE REGULATION OF
23 MEASURING AND REPORTING ENERGY USE AND CONSUMPTION BY AN OWNER, OPERATOR OR
24 TENANT OF A BUSINESS, COMMERCIAL BUILDING OR MULTIFAMILY HOUSING PROPERTY AND
25 THE SALE, USE OR DISPOSITION OF AUXILIARY CONTAINERS BY AN OWNER, OPERATOR OR
26 TENANT OF A BUSINESS, COMMERCIAL BUILDING OR MULTIFAMILY HOUSING PROPERTY
27 PURSUANT TO THIS SECTION ARE NOT SUBJECT TO FURTHER REGULATION BY A CITY OR
28 TOWN.

29 C. THE LEGISLATURE FINDS THAT SMALL BUSINESSES ARE PARTICULARLY
30 SENSITIVE TO COSTS AND EXPENSES INCURRED IN COMPLYING WITH REGULATORY ACTIONS
31 OF A CITY OR TOWN. THE LEGISLATURE FURTHER FINDS THAT INCONSISTENT REGULATION
32 BY CITIES AND TOWNS HINDERS A SMALL BUSINESS FROM BENEFITING FROM FREE AND
33 OPEN COMPETITION.

34 D. THIS SECTION DOES NOT PREVENT A CITY OR TOWN FROM CONTINUING A
35 VOLUNTARY RECYCLING AND WASTE REDUCTION PROGRAM AS AUTHORIZED BY SECTION
36 9-500.07 OR ENSURING THAT DISCARDED AUXILIARY CONTAINERS DEFINED AS SOLID
37 WASTE PURSUANT TO SECTION 49-701.01 ARE DISPOSED OF PROPERLY.

38 E. FOR THE PURPOSES OF THIS SECTION, "AUXILIARY CONTAINER" INCLUDES
39 REUSABLE BAGS, DISPOSABLE BAGS, BOXES, BEVERAGE CANS, BOTTLES, CUPS AND
40 CONTAINERS THAT ARE MADE OUT OF CLOTH, PLASTIC, EXTRUDED POLYSTYRENE, GLASS,
41 ALUMINUM, CARDBOARD OR OTHER SIMILAR MATERIALS AND THAT ARE USED FOR
42 TRANSPORTING MERCHANDISE OR FOOD TO OR FROM A BUSINESS OR MULTIFAMILY HOUSING
43 PROPERTY. AUXILIARY CONTAINER DOES NOT INCLUDE A STATIONARY RECEPTACLE
44 INTENDED SOLELY FOR USE BY THE PUBLIC FOR VOLUNTARY DONATION OF GOODS AND
45 MATERIALS INTENDED FOR SUBSEQUENT REUSE, SALE OR RECYCLING.

1 Sec. 2. Title 11, chapter 2, article 4, Arizona Revised Statutes, is
2 amended by adding section 11-269.13, to read:

3 11-269.13. Prohibition on requirement of energy measuring and
4 reporting; prohibition on regulation of auxiliary
5 containers; state preemption; legislative
6 findings; definition

7 A. A COUNTY MAY NOT:

8 1. REQUIRE AN OWNER, OPERATOR OR TENANT OF A BUSINESS, COMMERCIAL
9 BUILDING OR MULTIFAMILY HOUSING PROPERTY TO MEASURE AND REPORT ENERGY USAGE
10 AND CONSUMPTION, INCLUDING ENERGY CONSUMPTION BENCHMARKING AND BUILDING
11 FACILITY ENERGY EFFICIENCY AUDITS.

12 2. IMPOSE A TAX, FEE, ASSESSMENT, CHARGE OR RETURN DEPOSIT ON A
13 CONSUMER OR AN OWNER, OPERATOR OR TENANT OF A BUSINESS, COMMERCIAL BUILDING
14 OR MULTIFAMILY HOUSING PROPERTY FOR AUXILIARY CONTAINERS.

15 3. REGULATE THE SALE, USE OR DISPOSITION OF AUXILIARY CONTAINERS BY AN
16 OWNER, OPERATOR OR TENANT OF A BUSINESS, COMMERCIAL BUILDING OR MULTIFAMILY
17 HOUSING PROPERTY.

18 B. THE REGULATION OF AN OWNER, OPERATOR OR TENANT OF A BUSINESS,
19 COMMERCIAL BUILDING OR MULTIFAMILY HOUSING PROPERTY RELATING TO MEASURING AND
20 REPORTING ENERGY USE AND CONSUMPTION AND THE SALE, USE AND DISPOSITION OF
21 AUXILIARY CONTAINERS IS A MATTER OF STATEWIDE CONCERN. THE REGULATION OF
22 MEASURING AND REPORTING ENERGY USE AND CONSUMPTION BY AN OWNER, OPERATOR OR
23 TENANT OF A BUSINESS, COMMERCIAL BUILDING OR MULTIFAMILY HOUSING PROPERTY AND
24 THE SALE, USE OR DISPOSITION OF AUXILIARY CONTAINERS BY AN OWNER, OPERATOR OR
25 TENANT OF A BUSINESS, COMMERCIAL BUILDING OR MULTIFAMILY HOUSING PROPERTY
26 PURSUANT TO THIS SECTION ARE NOT SUBJECT TO FURTHER REGULATION BY A COUNTY.

27 C. THE LEGISLATURE FINDS THAT SMALL BUSINESSES ARE PARTICULARLY
28 SENSITIVE TO COSTS AND EXPENSES INCURRED IN COMPLYING WITH REGULATORY ACTIONS
29 OF A COUNTY. THE LEGISLATURE FURTHER FINDS THAT INCONSISTENT REGULATION BY
30 COUNTIES HINDERS A SMALL BUSINESS FROM BENEFITING FROM FREE AND OPEN
31 COMPETITION.

32 D. THIS SECTION DOES NOT PREVENT A COUNTY FROM CONTINUING A VOLUNTARY
33 RECYCLING AND WASTE REDUCTION PROGRAM AS AUTHORIZED BY SECTION 11-269 OR
34 ENSURING THAT DISCARDED AUXILIARY CONTAINERS DEFINED AS SOLID WASTE PURSUANT
35 TO SECTION 49-701.01 ARE DISPOSED OF PROPERLY.

36 E. FOR THE PURPOSES OF THIS SECTION, "AUXILIARY CONTAINER" INCLUDES
37 REUSABLE BAGS, DISPOSABLE BAGS, BOXES, BEVERAGE CANS, BOTTLES, CUPS AND
38 CONTAINERS THAT ARE MADE OUT OF CLOTH, PLASTIC, EXTRUDED POLYSTYRENE, GLASS,
39 ALUMINUM, CARDBOARD OR OTHER SIMILAR MATERIALS AND THAT ARE USED FOR
40 TRANSPORTING MERCHANDISE OR FOOD TO OR FROM A BUSINESS OR MULTIFAMILY HOUSING
41 PROPERTY. AUXILIARY CONTAINER DOES NOT INCLUDE A STATIONARY RECEPTACLE
42 INTENDED SOLELY FOR USE BY THE PUBLIC FOR VOLUNTARY DONATION OF GOODS AND
43 MATERIALS INTENDED FOR SUBSEQUENT REUSE, SALE OR RECYCLING.